

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

MELISSA STIRES,	-	
	-	Case No.: 1:15-cv-00845-GBL-IDD
Plaintiff,	-	
v.	-	PLAINTIFF'S AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL
	-	
MACY'S, INC.	-	
d/b/a Macy's Credit Operations,	-	
	-	
Defendant.	-	

MELISSA STIRES ("Plaintiff"), through her attorneys, alleges the following against MACY'S, INC. d/b/a Macy's Credit Operations ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

JURISDICTION AND VENUE

2. Subject matter jurisdiction of this court arises pursuant to 28 U.S.C. § 1331 and 47 U.S.C. § 227.

3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) as the acts giving rise to this action occurred in this district as Plaintiff resides in this district and Defendant conducts business in the this district.

PARTIES

4. Plaintiff is a natural person at times relevant residing in Alexandria, Virginia.

5. Defendant is a business entity incorporated in Delaware and headquartered in Ohio.

6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

7. In or around 2014, Defendant began placing telephone calls to Plaintiff's cellular telephone, (202) 445-04xx, in an attempt to collect an alleged debt.

8. Defendant placed calls from numbers including, but not limited to, 513-573-8038

9. Upon information and belief based on the frequency, number, nature, and character of these calls, Defendant placed them using an automatic telephone dialing system or other equipment that has the capacity to store and/or produce telephone numbers ("auto dialer").

10. On numerous occasions, Plaintiff received pre-recorded voicemail messages from Defendant.

11. When Plaintiff answered Defendant's calls, Plaintiff would hear pre-recorded messages and/or a delay before she spoke to a live operator.

12. On December 24, 2014, Plaintiff spoke to Defendant's representative and requested that Defendant cease placing calls to her cellular telephone.

13. Plaintiff revoked any consent, actual or implied, for Defendant call her cellular phone.

14. Despite Plaintiff's request to cease, Defendant continued to use an auto dialer to call Plaintiff's cell phone.

15. From December 24, 2014 to February 27, 2015, Defendant used an auto dialer to place call Plaintiff's cell phone at least two hundred and four (204) times, including but not limited to the following:

- December 24, 2015: two (2) calls;

- December 26, 2014: three (3) calls;
- December 27, 2014: three (3) calls;
- December 29, 2014: three (3) calls;
- December 30, 2014: five (5) calls;
- December 31, 2014: one (1) call;
- January 2, 2015: one (1) call;
- January 3, 2015: one (1) call;
- January 5, 2015: two (2) calls;
- January 8, 2015: one (1) call;
- January 9, 2015: three (3) calls;
- January 10, 2015: three (3) calls;
- January 11, 2015: two (2) calls;
- January 12, 2015: three (3) calls;
- January 13, 2015: seven (7) calls;
- January 14, 2015: three (3) calls;
- January 15, 2015: two (2) calls;
- January 16, 2015: three (3) calls;
- January 17, 2015: seven (7) calls;
- January 18, 2015: seven (7) calls;
- January 19, 2015: seven (7) calls;
- January 20, 2015: two (2) calls;
- January 21, 2015: seven (7) calls;
- January 22, 2015: three (3) calls;

- January 23, 2015: seven (7) calls;
- January 24, 2015: ten (10) calls;
- January 25, 2015: four (4) calls;
- January 26, 2015: six (6) calls;
- January 27, 2015: nine (9) calls;
- January 28, 2015: ten (10) calls;
- January 29, 2015: fifteen (15) calls;
- January 30, 2015: three (3) calls;
- January 31, 2015: seven (7) calls;
- February 1, 2015: twenty-one (21) calls;
- February 2, 2015: four (4) calls;
- February 3, 2015: three (3) calls;
- February 4, 2015: one (1) call;
- February 5, 2015: one (1) call;
- February 6, 2015: one (1) call;
- February 7, 2015: one (1) call;
- February 8, 2015: one (1) call;
- February 9, 2015: one (1) call;
- February 10, 2015: one (1) call;
- February 11, 2015: one (1) call;
- February 12, 2015: one (1) call;
- February 13, 2015: one (1) call;
- February 14, 2015: one (1) call;

- February 15, 2015: one (1) call;
- February 15, 2015: one (1) call;
- February 16, 2015: one (1) call;
- February 17, 2015: one (1) call;
- February 18, 2015: one (1) call;
- February 19, 2015: one (1) call;
- February 20, 2015: one (1) call;
- February 21, 2015: one (1) call;
- February 22, 2015: one (1) call;
- February 23, 2015: one (1) call;
- February 24, 2015: one (1) call;
- February 26, 2015: one (1) call;
- February 27, 2015: one (1) call

COUNT I
DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

16. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

17. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violations of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff, MELISSA STIRES, respectfully requests judgment be entered against Defendant, MACY'S, INC. d/b/a Macy's Credit Operations, for the following:

18. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);
19. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B) and 47 U.S.C. § (b)(3)(C);
20. All court costs, witness fees and other fees incurred; and
21. Awarding such other and further relief as may be just, proper and equitable.

RESPECTFULLY SUBMITTED,

DATED:

By: /s/ Frank Webb

Frank Webb
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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF and served all counsels of record via transmission of Notices of Electronic Filing generated by CM/ECF.

By: /s/ Frank Webb
Frank Webb